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PAGE 01 STATE 095367

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ORIGIN EB-11

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R 08,158Z MAY 74

FM SECSTATE WASHDC

TO AMEMBASSY VIENNA

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E.O. 11652: N/A

TAGS: ETRN, AU

SUBJECT: CIVAIR - CHARTER UNDERSTANDING

REF: VIENNA 3205

1. IN VIEW RECENT CAB AMENDMENT OF, AND CHANGES PROPOSED TO, TRAVEL GROUP CHARTER (TGC) RULES (SEE BELOW), AND ON ASSUMPTION THAT, IN CONCERT WITH ECAC PARTNERS, GOA MAY PLAN BOTH TO SHORTEN 90-DAY FILING REQUIREMENT TO 60 DAYS FOR ADVANCE BOOKING CHARTERS (ABC'S) AND TO ADOPT ECAC CONCEPT OF "SPECIAL EVENT" CHARTERS, IT IS DOUBTLESS BEST TO ATTEMPT AT APPROPRIATE TIME TO RENEGOTIATE DRAFT MEMORANDUM OF UNDERSTANDING ON CHARTER SERVICES TO REFLECT CURRENT REGULATORY ATMOSPHERE. FYI: IT SEEMS LIKELY THAT GOA SUGGESTION TO DEFER SIGNING DRAFT MOU IS BASED ON FACT THAT IN JANUARY USG NEGOTIATED AMENDMENTS ALONG FOREGOING LINES TO 1973 CHARTER ACCORDS WITH UK, FRANCE AND GERMANY. END FYI.

2. RECENTLY AMENDED CAB RULES AUTHORIZE U.S. AND FOREIGN AIRLINES TO OPERATE, ON BASIS OF AN INTERGOVERNMENTAL

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PAGE 02 STATE 095367

AGREEMENT, FOREIGN-ORIGINATING ADVANCE BOOKING CHARTERS TO THE U.S., WITHOUT A WAIVER OF U.S. TRAVEL GROUP CHARTER (TGC) RULES. INASMUCH AS THIS OBVIATES THRUST OF PARAGRAPH II OF DRAFT MOU, IT SEEMS TO US THAT BOTH PARAS II AND III OF DRAFT MOU SHOULD BE DELETED AND

REPLACED BY SINGLE NEW PARAGRAPH TO BE ADDED FOLLOWING PARA I.D.(4), READING AS FOLLOWS:

"E. PARTICULAR ACTIONS - EACH PARTY UNDERTAKES THAT ITS REGULATORY AUTHORITIES WILL TAKE ALL APPROPRIATE ACTIONS NECESSARY TO IMPLEMENT THIS UNDERSTANDING."

3. IN ADDITION TO RULES CHANGES ALREADY ANNOUNCED, CAB HAS ALSO (1) ISSUED NOTICE OF PROPOSED RULE MAKING, PROPOSING TO REDUCE THE 90-DAY TGC LIST FILING PERIOD UNDER U.S. RULES TO 60 DAYS AND (2) ANNOUNCED PROPOSAL TO CREATE "SPECIAL EVENT" CHARTER, A NEW CATEGORY UNDER WHICH AIR CHARTER FLIGHTS COULD BE OPERATED FOR ATTENDANCE AT A PARTICULAR SPORTS EVENT, CONCERT, ETC. ON ASSUMPTION, THEREFORE, THAT EACH PARTY IS CONTEMPLATING "ADVANCE CHARTER" RULE CHANGES WHICH ARE PROBABLY ACCEPTABLE TO THE OTHER, EMBASSY MAY WISH TO PROPOSE TO GOA THAT DRAFT MEMORANDUM OF UNDERSTANDING BE FURTHER AMENDED TO REFLECT INTENTION OF EACH PARTY TO ACCEPT THE OTHER'S "ADVANCE CHARTER" RULE CHANGES REGARDING 60-DAY FILING AND RELATED DETAILS. A LESSER COMMITMENT BY BOTH PARTIES TO "USE BEST EFFORTS" TO ACCEPT FLIGHTS OF A "SPECIAL EVENT" CHARACTER WOULD BE ACCEPTABLE TO USG. FOREGOING COULD BE INCLUDED AS AMENDMENTS TO PARA I.A. ON "CHARTERWORTHINESS" IN DRAFT MOU AS FOLLOWS:

A. ADD AT END OF PARA I.A.: "EACH PARTY FURTHER UNDERTAKES TO USE ITS BEST EFFORTS TO ACCEPT AS CHARTERWORTHY CHARTER FLIGHTS OF A 'SPECIAL EVENT' CHARACTER ORGANIZED IN AND FLOWN FROM THE TERRITORY OF THE OTHER PARTY."

B. ADD AS FOOTNOTE 2 TO PARA I.A.: "1. THIS INCLUDES AN "ADVANCE CHARTER" RULE MODIFIED, TEMPORARILY OR LIMITED OFFICIAL USE

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PAGE 03 STATE 095367

OTHERWISE, TO PROVIDE FOR AN INITIAL FILING OF PASSENGER LISTS AT LEAST SIXTY DAYS (RATHER THAN AT LEAST NINETY DAYS) IN ADVANCE OF FLIGHT DEPARTURE."

4. WHILE WE HOPE TO MOVE FORWARD WITH CHARTER ACCORD IN NEAR FUTURE, WE WOULD NOT WISH TO SEE IT DELAY, OR EVEN BECOME LINKED WITH, OUR EFFORTS TO SECURE

AUTHORITY FOR BERLIN-VIENNA SERVICE (STATE).
THEREFORE, PENDING GOA DECISION IN REGARD BERLIN ROUTE,
EMBASSY MAY WISH TO INFORM MINISTER FISCHER THAT,

BASED ON PARA 1 ABOVE, WE ARE REDRAFTING MOU FOR GOA
CONSIDERATION. IN MEANTIME, WE ASSUME THAT EXCHANGE
OF LETTERS OF NOVEMBER 6, 1973, WILL CONTINUE TO
PROVIDE SATISFACTORY BASIS FOR CHARTER OPERATIONS.

5. IN REGARD PARA 3 REFTEL, WE ASSUME GOA NOW AGREES
THAT MOU SHOULD EVENTUALLY BE BROUGHT INTO FORCE VIA
FORMAL EXCHANGE OF NOTES. RUSH

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